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THE GAVEL

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THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

December 2020

Mr. Trump, you're fired! Biden wins election

Matthew Svancara
Gavel Contributor

On Saturday November 7, 2020, the former Vice-President Joe Biden was declared the President-Elect of the United States, and Senator Kamala Harris was declared the Vice-Presidential Elect. They achieved the magic number of 270 electoral votes in a very different way than most candidates have.

As of now, Joe Biden received 77,380,028 votes (51%) and President Trump has received 72,258,511 votes (47%). This was the highest vote total for any presidential election in history with a smashing turnout of 62% according to the AP. This was the highest percentage of turnout in over 50 years. Though impressive, popular vote does not determine the president, so let us talk about how Biden achieved more than 270 electoral votes.

On the night of the election, it looked like President Trump was going to be re-elected. He took Ohio (by more than 8%), and Florida (by 3%). The focus then shifted to the Mid-West, an area

that most pundits agreed contained the key battleground states in this election.

Trump took a lead in Wisconsin, Michigan, and Pennsylvania. Minnesota was not close, with Biden taking the state by more than 7%. As the night went on, Biden kept gaining on Trump as mail-in ballots started to be counted state-wide. Biden finally took a lead in WI and MI in the early hours of November 4th.

Biden was eventually declared the winner in WI, a state which he won by about 20,000 votes or .6%. He was also declared the winner in MI, which he won by about 150,000 votes or 2.6%. Pennsylvania took until Saturday to finally complete their counting, and Biden won the state by about 50,000 votes or .7%.

Overall, these states were very close, but not as close as 2016. Nevada was declared on Saturday as well, a state which he won by 37,000 votes or 2.5%. This put Biden over the top of 270 electoral votes.

There were a couple of shocking events in the evening. Biden



Photo by Biden For President / Creative Commons

won Arizona, which has not voted for a Democratic candidate since Bill Clinton in 1996, and Georgia, which has not voted for a Democratic candidate since 1992.

Arizona has not been fully declared. Fox News was the first to call Arizona for Biden when he led by 13,000 votes or 0.39%. This was a shocking event, because Republicans have won this state single-handedly since 1996, and Biden was barely leading in the RPC average on election day.

Trump was unable to overtake Biden in Arizona after all votes were counted, giving Biden its electoral votes. In Georgia, Biden was leading Trump by 14,000 votes

or 0.28%. It has since conducted a hand recount of the votes and is looking into signature verification of ballots.

So how did Biden win this election? There were a number of stories coming out that said that Biden would overperform Trump in the suburbs of these battleground states, and Biden did do a little bit better, but the story of the night was the massive turnout in the Rust Belt states. There were several counties in the Rust Belt states that helped Biden flip the states of Wisconsin, Michigan, and Pennsylvania.

SEE ELECTION, page 2

BLSA Presses Forward Amidst COVID-19

Bianca Smith
Gavel Contributor

In March, 2020, the world came to a screeching halt, but for the CM-Law Black Law Students Association, an opportunity arose. BLSA chose to embrace our virtual world and began planning for business as usual.

Under the leadership of President Davona A. Mason, the e-board committed to providing programming and academic support per usual.

During the summer, BLSA led two community service events: participating in a food giveaway sponsored by First Love Ministries in conjunction with the Greater Cleveland Foodbank and spearheading a hygiene drive in partnership with the Salvation Army – Harbor Lights family shelter.

As the campus prepared to welcome our incoming 1L class, BLSA paired new law students with mentors through the BLSA Buddies program. Students were encouraged to engage virtually and share their experiences with incoming students of color.

BLSA has hosted monthly general body meetings on topics surrounding self-care and mental health, voter's rights, sexual harassment and exam preparation.

We also held a few virtual hangout events and our first annual Friendsgiving. As the semester closes, BLSA will host the annual End of Semester Review on December 5 for all students. We look forward to working with our faculty to prepare students for success on final exams.

BLSA has seized the



Photo by Cleveland-Marshall College of Law

opportunity to engage with our fellow chapters by hosting events in conjunction with both University of Akron and University of Dayton chapters.

In the Spring, we look forward to attending the Mid-West BLSA Regional Convention and engaging in Mock Interviews sponsored by Thompson Hines – Dayton Office.

Elections for next year's officers will take place in early April, 2021. If you are inter-

ested in pursuing a position in BLSA, please contact the respective officer for more information on the position and the election process.

Our capstone event will be the annual Scholarship Banquet tentatively scheduled for April 16, 2021. The event will likely be virtual this year and we look forward to honoring our esteemed Alumni and supporting high school students of color in their pursuit of college.

If you are interested in joining BLSA or supporting any of our upcoming programs, please contact cmlawblsa1@gmail.com.

You can also follow us on Instagram @cmlawblsa or on Facebook at "CMLaw BLSA". Have a wonderful holiday season and we look forward to a prosperous spring semester.

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The Current State of the World

Michael Watkins
Gavel Contributor

On Friday, November 20th the Global Business Law Review hosted its 2 hour “The Current State of the World” CLE/Webinar. The virtual event was broken into two segments that included three speakers, and a total of nearly 30 students, administrators, and community leaders.

The first speaker of the event was the Executive Director of the Ohio Lawyers Assistance Program (“OLAP”), Mr. Scott Mote.

OLAP is an Ohio nonprofit corporation that provides education, intervention, monitoring and support for substance use disorders, process addictions, and mental illness, serving over 44,000 Ohio lawyers and judges, and over 3,000 law students in Ohio’s nine law schools.

OLAP is supported by The Supreme Court of Ohio, the Ohio State Bar Association, and Ohio Bar Liability Insurance Company (affiliate of the OSBA). A recovering alcoholic since January 7, 1985, Scott began volunteering with the Ohio State Bar Association’s (OSBA) Lawyers Assistance Committee (LAC) in September 1985. He has been involved with the LAC/OLAP for over 35 years, serving as OLAP’s first Associate Director beginning in 1995, and becoming Executive Director in March 1999.

Scott has made over 700 presentations to lawyers, judges and law students and he has facilitated over 150 interventions and oversees six other chemical dependency and mental health professionals.



Photo by Ohio State Bar Association

Scott began his presentation with a heartfelt story of his past struggles with alcohol and his journey to sobriety. Scott briefly explained to the audience what OLAP is and how important it is for each and every person connected to the field of law to know of this organization’s existence and the resources it provides to the legal community.

He then discussed in detail real life examples of law students, lawyers, and judges that have struggled with either a mental, emotional, or substance abuse problem. Many of the individuals Scott mentioned have either successfully overcome their addiction or have not. Scott concluded his presentation by uplifting the audience and expressing the universal importance of getting help, helping others, and ways to become empowered in the workplace.

The second half of the webinar was led by both Bethany Studenic and Chineye (ChiChi) Nkemere. Bethany is a Co-Founder and Managing Director of Enlightened Solutions, an organization that creates, implements, and publishes research-based solutions that center



Photo by Enlightened Solutions

on the lived experiences of diverse people. Bethany holds her Bachelors in Social Work, Masters in Social Administration, and Juris Doctor.

ChiChi is the other Co-Founder and Director of Strategy of Enlightened Solutions. ChiChi is a strategic thinker and has over 10 years of experience in community and digital engagement and advocacy.

Bethany and ChiChi’s presentation began with informing listeners of Enlightened Solutions and the organizations drive for diversity, equity, and inclusion.

The two speakers expressed the many different issues that minority and under-resourced persons face in the Cleveland area, and the many ways lawyers and legal professionals can counteract the discrimination and implicit biases erupting in our region.

The Co-Founders shared real life examples of unjust and discriminatory practices occurring in surrounding workplaces, and expressed to our listeners practical solutions to resolve the under-addressed problems surrounding diversity, equity, and inclusion.

ELECTION

From page 1

In WI, Biden achieved massive turnout in Milwaukee County, and received more total votes than Hillary Clinton did in 2016, which contributed to his win.

In Michigan, Wayne County, which includes the city of Detroit, had another massive turnout. This allowed Biden to achieve more total votes in Wayne County than Clinton did in 2016.

This padded his lead in MI and flipped a state that barely went to Trump in 2016 to Biden in 2020.

Pennsylvania had several counties around Philadelphia, such as Philadelphia County, Bucks County, Montgomery County, and Allegheny County that includes Pittsburgh. Biden did much better in these suburban



Photo by Biden For President / Creative Commons

counties around Philadelphia and in Philadelphia County.

These counties had a total vote number and percentage that exceeded 2016, which contributed to Biden flipping Pennsylvania. When we look at Arizona, a county that went to Trump in 2016 flipped to Biden in 2020.

This county is Maricopa,

which includes the city of Phoenix, and contributes to about 62% of the total population of the state.

With Biden flipping Maricopa County, he was able to be ahead in this state, resulting in Fox News calling Arizona early in the night.

In Georgia, Biden was

able to be ahead in this state by getting massive turnout in Fulton County including Atlanta, and suburban counties such as DeKalb, Cobb, and Gwinnett Counties.

Biden did much better in the suburbs around Atlanta than Hillary Clinton did in 2016, which helped him to be on track to flip a state that has not gone for a Democrat since 1992.

This was a very interesting election, with Biden being able to flip the states that Trump won in 2016, along with two reliably Republican states.

Biden will have achieved the highest vote total for a presidential candidate in history in the highest turnout election in over 50 years.

How President-elect Joe Biden's Plan to End America's Student Debt Crisis May be Thwarted by the Supreme Court

Keyano Burgess
Gavel Contributor

On January 20, 2021, Joe Biden will take office as the 46th president of the United States. One of Biden's objectives is to end the student debt crisis in this country, which holds more than 44 million Americans accountable for \$1.5 trillion in student loans.

To end the student debt crisis, Biden's plan includes several proposals, including supporting colleges and universities that play unique and vital roles in their communities, more than halving payments on undergraduate federal student loans, and making loan forgiveness work for public servants.

First, Biden seeks to support colleges and universities that play unique and vital roles in their communities, including Historically Black Colleges and Universities (HBCUs), Hispanic-serving institutions (HSIs), and Asian American and Native American Pacific Island-serving Institutions (AANAPISIs).

In particular, the Biden Administration proposes to invest \$10 billion to create 200 new centers of excellence to serve as research hubs, and connect underrepresented students in fields vital to America's future, including climate change, inequality, and health disparities. Biden also plans to dedicate additional and increased priority funding at federal agencies for grants and contracts for HBCUs and MSIs (Minority-Serving Institutions).

Second, Biden seeks to more than halve payments on undergraduate federal student loans by simplifying and increasing the generosity of today's income-based repayment program. Under Biden's plan, individuals making \$25,000 or less per year will not owe any payments on their undergraduate federal student loans and will not accrue interest on those loans. If implemented, Biden's plan will save millions of Americans thousands of dollars each year.

Third, Biden proposes to make loan forgiveness a reality for public servants including teachers, firefighters, and sanitary workers. In recognition of the contributions public servants make, Biden seeks to create a new program which offers \$10,000 of undergraduate or graduate student debt relief for every year of national or community service, up to five years.

To carry out his proposed plan, Biden will need Congress



Photo by Gage Skidmore / Creative Commons

to delegate legislative power to executive agencies. Executive agencies are a vital component to the government of the United States.

Examples of Executive agencies include the Environmental Protection Agency and the Department of Homeland Security. Executive agencies play a vital role in the functioning of our government, because many agencies possess substantial power.

Executive agencies emulate both the legislative and executive branches when exercising their power in that many agencies exercise legislative power by issuing regulations, analogous to how Congress enacts statutes; while many agencies also exercise judicial power by issuing orders, after conducting an adjudication, like how the Supreme Court holds judicial hearings.

A comparison of the number of regulations issued by executive agencies contrasted with the number of statutes enacted by Congress shows the immense power executive agencies wield: In 2019, there were 2,964 regulations issued by executive agencies, on the other hand only 193 statutes were enacted by Congress. These numbers show the vital importance executive agencies have in the United States government.

Biden will be hindered in his ability to follow through on his plans to provide student debt relief if the Supreme Court chooses to reinforce the nondelegation doctrine.

Enforced only twice in the last 100 years, the nondelegation doctrine prohibits Congress from delegating legislative power to executive agencies. When analyzing the nondelegation doctrine, The Supreme Court applies the intelligible principle test.

Applying the intelligible

principle test, the court asks whether Congress has supplied an intelligible principle to guide the agency's discretion.

Gundy v. United States, decided on June 20, 2019, involves a convicted sex offender who is sentenced to 10-years in prison because he failed to comply with the registration requirements of the Sex Offender Registration and Notification Act (SORNA).

Congress enacted SORNA to create a national sex-offender registration system, in response to loopholes existent in pre-existing state enacted regulations that allowed over 100,000 sex offenders to escape registration.

Along with covering more sex offenders and imposing more arduous registration requirements, the Act also enforces those requirements with new criminal penalties: any person required to register under SORNA who knowingly fails to do so may be imprisoned for up to ten years.

Hernan Gundy argues that 34 U.S.C § 20913(d), a provision enacted as part of SORNA, violates the nondelegation doctrine because it grants the Attorney General unchecked power to decide how to apply SORNA to sex offenders convicted of a sex offense before SORNA was enacted. The majority holds that § 20913 (d) does not violate the nondelegation doctrine.

Applying the intelligible principle test, the majority interprets the rule in question and rules that Congress had instructed the Attorney General to enforce SORNA on pre-act offenders as he saw feasible.

On the other hand, the dissent finds the intelligible principle test inadequate to determine whether the nondelegation doctrine has been violated, and instead proposes an alternative, three-step test to replace in intel-

ligible principle test.

The dissent's three-step test allows Congress to delegate legislative power to an executive agency if: (1) Congress makes a policy decision, then authorizes another branch to fill in the details, (2) Once Congress presents a rule governing conduct, it may make application of a rule dependent on executive fact finding, and (3) Congress may assign executive and judicial branch certain non-legislative responsibilities. If the dissent's three-step test replaces the intelligible principle test, a substantially higher number of legislative delegations of executive power will violate the nondelegation doctrine.

Biden faces several problems in carrying out his plan for student debt relief if the dissent's three-step test supersedes the intelligible principle test.

First, regarding step 1, politicians are not qualified to make policy decisions regarding education, an executive agency like The Department of Education is.

Second, regarding step 2, application of a rule should not be made on executive fact finding, instead the rule should be made on the finding of an executive agency possessing expertise in education.

Third, regarding step three, Biden plans to dedicate additional and increased priority funding at executive agencies for grants and contracts for HBCUs and MSIs. Whenever additional and increased funding is involved, cases of fraud and deceit will inevitably arise.

The agency who allocated the funds to begin, like The Department of Education, would be in a better position to exercise legislative power to handle such situations as they arise.

Biden enters the White House on January 20, 2021, with a plan to heal American's student loan debt. To implement his plan most effectively, Biden needs Congress to delegate legislative power to executive agencies, which are fundamental to the functioning of the American government in that they have the ability to pass substantially more regulations than Congress can pass statutes.

To maintain the administrative state, it should be in the best interest for past, current, and future students that the non-delegation doctrine continue to be tried using the intelligible principle test, and not be replaced in favor of the Gundy dissent's three-part test.

The Issue of Privacy in the Era of Zoom Communications

Gabriella Russo
Gavel Contributor

In the age of Covid, all classes have been primarily held over Zoom, but one area that remains unclear while engaging via Zoom is your level of privacy.

Earlier this month, the Federal Trade Commission, in a settlement with Zoom Communications Inc., promised to implement a heightened security program.

According to the Hill, “The settlement, approved by the FTC by a vote of 3-2, requires Zoom to heighten security through creating a vulnerability management program, deploying certain safeguards including multifactor authentication and assessing and documenting new security risks and ways to protect against these risks every year.”

The FTC’s argument is that Zoom has not been truthful about the type of encryption practices they employed in their software. The settlement stated, “Zoom maintained the cryptographic keys that could allow Zoom to access the content of its



customers’ meetings, and secured its Zoom meetings, in part, with a lower level of encryption than promised.”

The FTC went on to allege that the “ZoomOpener” web server, released in 2008, that helped to launch Zoom meetings, completely bypassed an Apple Safari security protocol specifically designed to protect users from certain kinds of malware. Users’ security was thereby compromised due to this alleged security infringement.

According to the settlement, “Zoom personnel will be required to review software updates for security vulnerabilities, including making sure updates do not impede third-party security features, and the company is prohibited from misrepresenting

privacy and security practices to users.”

Zoom also is obligated to allow a third party to conduct biennial assessments of said security program.

Andrew Smith, director of the FTC’s Bureau of Consumer Protection said earlier this month, “During the pandemic, practically everyone – families, schools, social groups, businesses – is using videoconferencing to communicate, making the security of these platforms more critical than ever. Zoom’s security practices didn’t line up with its promises, and this action will help to make sure that Zoom meetings and data about Zoom users are protected.”

The practice of “Zoom-bombing” was a huge problem in the earlier months of the Covid-19 Pandemic.

This meant that malicious actors were able to enter meetings to interrupt/disrupt them, often through the use of pornographic or racist imagery.

These “Zoom-bombers” even went so far as to interrupt K-12 classes meaning anyone could be a target, including law

students.

Zoom has tried to enhance security through encryption by enabling meeting passwords, restricting screen-sharing while actively in meetings and by stopping the share of their data with Facebook in March.

A representative for Zoom said earlier this month, “We are proud of the advancements we have made to our platform, and we have already addressed the issues identified by the FTC. Today’s resolution with the FTC is in keeping with our commitment to innovating and enhancing our product as we deliver a secure video communications experience.”

This FTC approved settlement was praised by both political parties with two Democratic FTC Commissioners, Rohit Chopra and Rebecca Kelly Slaughter dissenting.

Our privacy on Zoom is crucial for the level of engagement in our law classes to continue. The FTC’s settlement is a step in the right direction for all things privacy and cyberspace.

The United States Senate Runoff

Michael Dunham
Gavel Contributor

On November 3rd, 2020 the United States had its general election. The Democrats kept the House, and Democrat Joe Biden is the presumptive President Elect.

A majority of the Governors and State Legislatures went Republican and the Republicans currently lead the Senate Race 50-48. Two Senate Races in Georgia will decide control of the Senate. If the Republicans win one of the seats, they keep control of the Senate.

If the Democrats win both of those seats, the Senate will be tied at 50-50. This will result in the Vice President breaking



the tie, giving the Democrats the Majority.

If the Democrats win the Senate, they will control Congress. They will also control the White House giving them the trifecta and control of the appointments process.

If the Republicans win the Senate, we will have a divided Congress and a divided government. They will be able to block any Democrat bill from the House or any nomination from the President.

Georgia has two runoffs because of special circumstances. One of the seats is the normal seat for a six year term. The other seat is a special election to fill a vacancy for the final two years of a term.

They are going to a runoff because Georgia law requires an absolute majority of the votes to win an election. If no one gets a majority then the race goes to a runoff with the top two finishers advancing.

In the main race for a six year term Incumbent Republican Senator David Perdue is running for reelection against Challenger Democrat Jon Ossoff. Both got over 48% of the vote in the gen-



eral election. Perdue came in first place with over 49% of the vote and missed winning by only a few thousand votes.

Election audits have confirmed that he failed to get a majority forcing a runoff. Since he won the first race, he is slightly favored to win this runoff.

The special election for a two year term involves Incumbent Republican Senator Kelly Loeffler taking on Democrat Challenger Raphael Warnock. Loeffler became a senator when she was appointed by the Governor to fill a vacancy.

Since her appointment was only temporary, a special election was held to fill the seat. In the special election, Warnock came in first place but got under 40%

of the vote. Since there was no primary election, Loeffler faced a hard right challenge.

Since it is a runoff, the vote may not be split, but there are hard filings in this contest among conservatives meaning that some might want to sit this race out. Since there was no clear frontrunner in the General this race is a tossup.

Historically in Georgia, Republicans show up for runoffs and Democrats stay home. Since the stakes are higher this time, there might be higher turnout.

It is likely that one party will sweep both races but, there could be a split if the race is close. The Senate remains a tossup going into the runoff.

Trump Campaign Sues State and Federal Courts

Catelyn Cook
Editor-in-Chief

The Trump campaign does not appear to concede anytime soon, and has brought roughly a dozen new lawsuits, with most attempting to halt the vote-counting process or disqualify tranches of ballots. Additionally, recounts have been requested in areas where the vote is close.

These lawsuits and recounts are taking place in the states of Pennsylvania, Michigan, Nevada, Arizona, Wisconsin, and Georgia. This is being done in an attempt by the Trump campaign to uncover any instances of voter fraud resulting from mail in voting.

The campaign believes that this may have tipped the election in favor of Joe Biden, and intends to exhaust available remedies to determine this. It is unlikely that the campaign’s efforts will make a difference in the overall result of the election. Nonetheless, the following measures are being taken in each of these six states:

In Pennsylvania, Republicans sued to prevent 2.5 million mail-in votes from being counted believing the state’s mail-in voting law is unconstitutional. This was rejected by Pennsylvania’s Supreme Court. Another suit challenged a deadline extension for absentee voters to provide proof of identification. This suit was successful and those votes were not counted.

Additionally, a suit claiming poll observers did not have meaningful access to counting and that mail-in and in-person ballots received different levels of scrutiny was filed.

In Michigan, Trump sued to halt ballot counting on the basis of failure to allow Republicans meaningful access to observe the count. This was denied due to where and when it was filed, and is now being appealed. He also sued stating that Wayne County officials and the



Photo by Biden For President / Creative Commons

Michigan secretary of state blocked Republicans from meaningful access.

Another suit brought by the Great Lakes Justice Center alleges no meaningful access, as well as the accusation that a Detroit elections employee told voters to vote for Biden leading up to the election. This has been appealed to the Michigan Supreme Court.

In Nevada, multiple lawsuits were filed. One sought to halt the use of signature matching machines and allow the public greater access to vote counting. Another sought to challenge the election results on the basis of irregularities and fraud. Neither suit has succeeded. Biden leads by 33,596 votes, which is 2.4%,

In Arizona, a lawsuit was filed claiming that some Election Day votes were incorrectly rejected in Maricopa County and requesting a review of certain ballots. Machines read errors due to the use of sharpies when filling in ballots. The errors were not fixed, with workers instead overriding them. This case has not been ruled on.

In Wisconsin, a recount has been requested. Here, a recount may be conducted when the vote margin is within one percentage point. Biden currently leads Trump by 20,000 votes here. Upon its conclusion, Biden gained another 87 votes over Trump.

The Trump campaign still intends to pursue legal action, taking the question of possible illegal ballots to court. This could potentially escalate all the way to the Supreme Court.

In Georgia, a hand recount has been conducted. Biden led Trump by 14,000 votes here prior to the recount. After the recount, Biden led by 12,284 votes. In Floyd County, 2,600 ballots were found and counted, giving Trump an 800-vote gain. Total, more than 5,800 uncounted votes were found, with 1,400 new ones for Trump.

A second recount is set to take place. Additionally, a lawsuit was filed against the Chatham County Board of Elections that claimed absentee ballots received after November 3rd were mixed with the rest against the law. The case was since dismissed.

It’s Beginning to Look A Lot Like Finals!

Taylor Gill
Gavel Contributor

This is it. The time has come for you to wrap up your outlining and focus on finals. The end of the semester can be exceptionally stressful; challenging; and exhausting, but with hard work; determination; and proper balance; final exams are manageable.

One of the keys to final exam success is outlining. Outlining is how we synthesize the menagerie of information that we read and discussed throughout the semester. Because it can be a lengthy process, it is important to start this process early.

If you wait until reading week to start, the process will not be as effective in helping prepare for the exam. Here a few quick pointers on how to outline:

- Summarize the information as concisely as possible (do not just copy and paste your class notes into a new document).
- Use the course syllabus as a guide to best organize your outline.
- Work on your outlines in reasonable chunks – DO NOT TRY TO MAKE AN ENTIRE OUTLINE IN ONE DAY

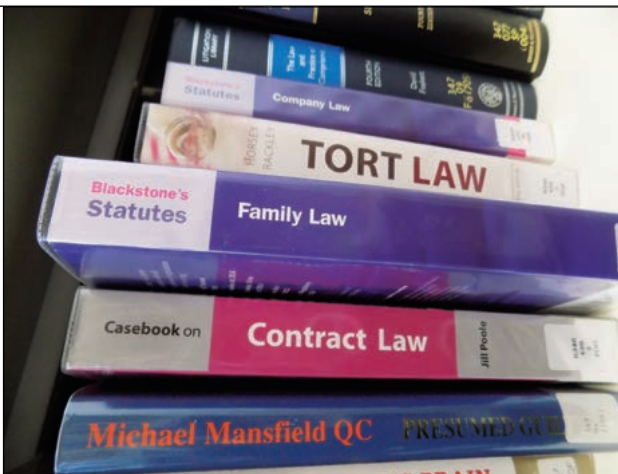


Photo by DPP Law / Creative Commons

- DO NOT RELY ON OTHERS’ OUTLINES! You want to make sure that you know the information well going into finals, and you will know it best by outlining the material yourself.

If you are struggling with any portion of your outline, reach out to your AEP Fellows, Peer Tutors, Academic Support staff, and professors! No question is a bad one!

While studying is important for exam preparation, it is also just as important to make sure that you are taking care of yourself. Do not sacrifice your health (whether

mental or physical) for exam preparation.

Health is important to get you through this stressful time, so here are few tips on how to best balance exams and life:

- Create a block schedule for yourself before reading week and try to stick to it as best you can.
- Get adequate sleep! Sleep is important for your brain and immune system!
- Taking study breaks is okay! Work in effective spurts! If you are struggling to focus, take a break to re-group (but not for too long).
- Do something for yourself every single day, something that you enjoy. This will help keep morale high and balance out the stress and anxiety of exams.
- Maintain a reasonable and regular diet. Balanced eating will help with energy level and effective retention.
- Maintain proper hygiene!

This has been an extremely stressful semester (and year) for everyone. Let’s try and finish it off with a successful finals period.

Black Lives Matter: How One Movement CAN Change the World Through the Law

Gabriella Russo
Gavel Contributor

Black Lives Matter activist and educator, DeRay Mckesson, born 1985, was given a much-needed win for civil liberties of all marginalized peoples from the Supreme Court of the United States in November 2020.

Mcession, back in July of 2016, went to Baton Rouge, Louisiana to livestream a protest disapproving of the killing of Alton Sterling who died while police were trying to arrest him.

Mckesson has been actively involved in community organizing since he was a young man. Mckesson was born in West Baltimore, Maryland. He grew up with parents who struggled with addiction and violence was part of the norm in his neighborhood.

Eventually, his father moved him to Catonsville, Maryland, and that is where Mckesson found his love of of community engagement and voluntarism. Mckesson graduated from Bowdoin College in Maine majoring in both government and legal studies and he eventually received a position through Teach For America as an elementary school educator.

In 2014, at 29, Mckesson took his first trip to Ferguson, Missouri to assist with the protests that followed after the death of Michael Brown. In 2015, he quit his job and moved to St. Louis to deepen his contributions with Black Lives Matter.

Mckesson also spoke in November 2015 at the Gay & Lesbian Alliance Against Defamation, commonly referred to as GLAAD, to help raise awareness for the LGBTQIA+ Com-



Photo by New York Times

munity since Mckesson himself is gay.

While livestreaming the protest, which took place on a highway in front of the police headquarters in the city. One Baton Rouge officer was allegedly hit with a piece of concrete or rock by a protestor although that protestor has not been identified. The officer sued Mckesson alleging that his organization, Black Lives Matter, made him liable for damages.

This is where the Supreme Court enters the equation. How can one man be liable for an unknown person who may OR may not have been a member of the Black Lives Matter organization?

The federal district court rejected the officer’s claim, but the 5th U.S. Circuit Court of Appeals reversed this decision explaining that, “a violent confrontation with a police officer was a foreseeable effect of negligently directing a protest.”

The Supreme Court decided on November 2, 2020 in a 7-1 Decision that the U.S. Court of Appeals for the 5th District should

according to SCOTUSblog, “...have ventured into such an uncertain area of state tort law without first using state certification procedures to seek guidance from the Louisiana Supreme Court.”

This is helpful to Mckesson, and assists BLM with the current problem at hand in America: why is equality and equity not promised to you if you are a Person of Color? There is no answer that the Supreme Court has thus provided to shine light on this ongoing issue in America, and their opinion earlier this month still left open a chance for the state law, through assistance by the Louisiana Supreme Court, to no longer protect people like Mckesson.

The justices write, “The Louisiana Supreme Court, to be sure, may announce the same duty as the Fifth Circuit.” The Court went onto say that the 5th Circuit should not have made a judgment on this area of the law that was, “laden with value judgment and fraught into implications for First Amendment rights.” Suffice it to say, that is all without consultation from the Louisiana Supreme Court.

Mckesson deserved his charges to be dropped which they ultimately were, but he also should never have been arrested for a crime he did not commit. This is an area of the law that is still being shaped every single day, and hopefully, the Supreme Court will remain on the right side of the law to ensure that every citizen of the United States is afforded the same civil liberties. If not, the “We the people” part of the preamble just became a whole lot smaller.

Cleveland State University Fall Virtual Commencement

Aimee Fanter
Editor-in-Chief

CSU’s virtual commencement will be held on Sunday, December 13, at 1 P.M., and will be a time for CSU graduates to gather virtually with CSU faculty, staff, friends and family to celebrate their achievements.

Graduates will receive an invitation and link for their ceremony that can be shared with family and friends. Information will be provided to the broader campus community on how to view the ceremonies, which will be streamed through YouTube, closer to the commencement date. Closed captioning will be available.

On Nov. 23, graduates will receive an email from StageClip, CSU’s virtual commencement partner, inviting them to upload a brief video, photo and written message to create a personalized “grad slide.”

Grads who choose not to upload personalized content will still be recognized with a slide that includes their name and degree.

All ceremonies will open with special remarks from President Sands and other guest speakers, followed by the virtual procession and recognition of students.

If you have any questions regarding graduation, please contact graduation@csuohio.edu.



Photo by Cleveland-Marshall College of Law

Cleveland-Marshall College of Law Announces 3+3 Program with Rust College

Aimee Fanter
Editor-in-Chief

CSU Cleveland-Marshall College of Law has entered into a 3+3 partnership with Rust College, an HBCU in Holly Springs, Mississippi. Founded in 1866, it is the second-oldest private college in the state and is one of ten historically black colleges and universities founded before 1868 that is still operating.

Over the last several years, Cleveland-Marshall College of Law has created an internal 3+3 program at Cleveland State University and entered into external agreements with Lake Erie College, the Universi-

ty of Findlay, Ursuline College, Notre Dame College, Mercyhurst University (in Pennsylvania), Trine University (in Indiana), Hiram College, Marietta College, Wagner College (in New York), and now Rust College.

Eligible students matriculating under a 3+3 agreement can graduate with both their undergraduate and law degrees in six rather than seven years of full-time study (or its equivalent), saving both time and money for the student.

In effect, the first year of law school does double duty, both completing the fourth year of undergraduate study and serving as the first year of law school.



Photo by Rust College

Trump Administration Personnel Changes

Catelyn Cook
Editor-in-Chief

President Trump’s administration has made some personnel adjustments in its final days. Major changes include the firing of Defense Secretary Mark Esper and Undersecretary of Defense for Policy James Anderson, as well as the resignation of Election Crimes Chief Richard Pilger.

Others fired include President Trump’s second-in-command at the U.S. Agency for International Development, Homeland Security Officials, a nuclear weapons agency leader, and climate scientist Michael Kupperberg. Federal Energy Regulatory Commission Chair Neil Chatterjee was demoted.

Additionally, 11 Defense Policy Board advisors were removed, whose purpose



Photo by Michael Vadon / Creative Commons

was to advise senior military leadership on threats to national security while engaging with Pentagon policy officials and the CIA.

The goal of the administration in removing these individuals is to create a group without loyalty to the Washington establishment. New members to be nominated will likely be selected based on their positive relationship to President Trump.

One new addition is Michael Ellis, who will be serving as general counsel of the National Security Agency. Another is Christopher Miller, director of the National Counterterrorism Center, who will be replacing Esper as Defense Secretary. U.S. Army Brig General Anthony Tata will similarly be serving as Undersecretary of Defense in place of James Anderson.

Whether the adjustments are driven by questions of loyalty or policy is unknown. It is thought that Esper’s removal comes as

a result of pushback against withdrawal of troops from Afghanistan. Military officials have warned that the Taliban must break its ties to al Qaeda and make progressive peace talks with the Afghan government before troops can be withdrawn.

Trump would be going against this advice by removing the remaining 4,500 troops by Christmas as he intends. The resignation of Pilger comes after Attorney General William Barr drafted a memo allowing investigations into voter fraud to occur.

An investigation may now occur if there are, “clear and apparently-credible allegations of irregularities that, if true, could potentially impact the outcome of a federal election in an individual State.” This suggests that policy differences may be at the heart of many key changes.

However, President Trump has expressed the difficulty of dealing with the members of the federal bureaucracy in the past, sometimes finding it easier to deal with foreign leaders. Some have speculated that he may be punishing those who are not supportive of him by making so many changes, and that removing these officials during a transition period is dangerous for national security.

It has also been noted that the Biden administration will not have guidance from these individuals now that they have been removed. As of now, it is uncertain whether others will be removed and replaced before Trump leaves office, as well as what the exact impact of new leadership will be.



Photo by CNN Politics

The U.S. Commerce Department Ban on TikTok

Megan Grantham
Gavel Contributor

Most Americans have probably had trouble avoiding the video sharing app TikTok as of late, where users can post short videos featuring dancing, crafts, comedy, and even share their political views.

The app has not been without controversy, however; in early November, the U.S. Commerce Department announced it would vigorously defend an executive order aiming to bar transactions with the app after a federal judge stopped the action.

TikTok was originally launched by Chinese internet technology company ByteDance in 2017, and has since been downloaded more than 2 billion times worldwide.

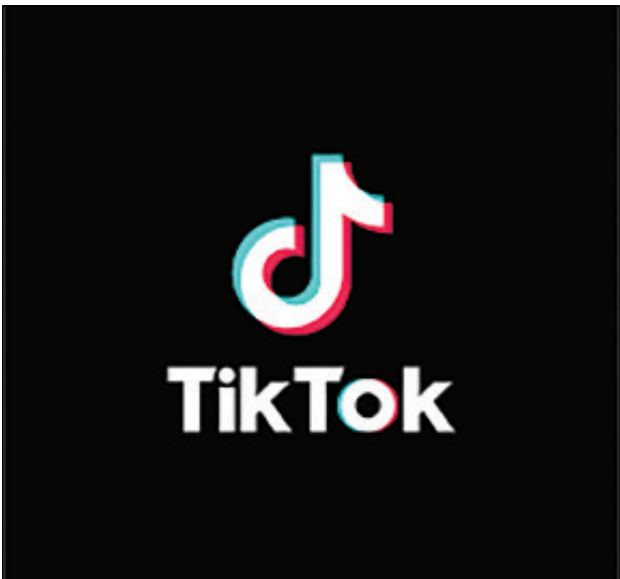


Photo by TikTok

The app has started the careers of several video creators, producing now recognizable names like Charlie D’Amelio and Addison Rae.

Although the app was continually gaining popularity through the beginning of 2020, the app became an even bigger sensation as people were encouraged to practice social distancing and stay at home with Covid-19 restrictions, allowing for people to spend more time online.

According to Music Business Worldwide, the app had a 27% increase in downloads in the first 23 days of March compared to the month of February.

The app began to cause controversy when President Trump began advocating for a ban in August, claiming that the app could “allow China to track the locations of Federal employees and contractors, build dossiers of personal information for blackmail, and conduct corporate espionage,” according to Harvard Business Review.

This led to a Commerce Department order that would have essentially barred TikTok, from being used in the United States. U.S. District Judge Wendy Beetlestone blocked the action on Friday Oct. 30, according to Reuters.

Following the injunction, the Commerce Department announced it would “comply with the injunction... but intends to vigorously defend the (executive order) and the Secretary’s implementation efforts from legal challenges,” according to the Hill.

The administration of President Donald Trump continues to assert that TikTok presents a national security concern, with the personal data of over 100 million Americans who routinely use the app being potentially obtained by the Chinese government.

These assertions are denied by TikTok, and Judge Beetlesone wrote that the “government’s own descriptions of the national security threat posed by the TikTok app are phrased in the hypothetical,” as reported by the Hill.

A preliminary injunction was issued on Sept. 27, by U.S. District Judge Carl Nichols in a suit brought by ByteDance that halted the Commerce Department from ordering Apple Inc. and the Google app store to remove TikTok to be available for download. The governmental order was set to become effective later on that same day.

Judge Bettlestone’s order came from a suit brought by three TikTok content creators, and blocked the app store ban from allowing users to download the app, according to Reuters.

There have been continual talks to finalize a preliminary deal for Walmart Inc. and Oracle Corp., both headquartered in the United States, to take gain stakes in a new company called TikTok Global, that would supervise U.S. operation.

As of now, Americans remain free to download and use the app to get their fix of minute-long entertainment.

CSU Announcement to move to Remote Instruction

Aimee Fanter
Editor-in-Chief

Earlier this month, CSU sent out an email stating their intent to move to remote instruction after Thanksgiving. Below is the announcement!

Given current community trends reflecting significant spread of COVID-19, CSU will move to a full remote teaching and learning environment beginning Monday, November 30.

Changes to the scheduled fall semester classes include all lecture courses currently offered in face-to-face and hybrid formats, and a majority of in-person labs, exams and tests.

We have done an extraordinary job of keeping our campus safe, following our data-driven model and our 7 layers of protection, and we thank all of you for your continued partnership. Our CSU family is doing a great job protecting themselves and others on campus.

It was our initial intent to complete the fall semester schedule as designed, but the physical safety and mental health of our campus community is our top priority. We must be flexible and act responsibly to limit risk of spread to our CSU community given the significant increase in cases locally.

We are making this decision out of an abundance of caution and in broad consensus with our Faculty Senate Steering Committee, academic leadership and student leadership.

“At CSU, we will always place faculty, student and staff health and well-being first,” said CSU Provost Jianping Zhu. “After reviewing our community health data and assessing potential for additional risk to our campus community when students return from Thanksgiving break, we have made



Photo by w_lemay / Creative Commons

the decision to forego the last week of on-campus classes and on-campus final exams. In the coming days, I will be working with our deans and faculty to ensure each student completes their courses, clinical and research experiences and labs as planned.”

CSU colleges, schools, departments and faculty will share more information about specific courses, labs, clinical experiences, practicums and exams where an on-campus component is required.

Mental health support is always available here.

- What stays the same:
- Campus remains open.

- Campus office operations will continue to follow fall semester operating guidelines.
- Students whose field placement, clinical experience, internship, lab or studio course that will continue to meet in person after Thanksgiving will be notified via email from their faculty advisor, mentor, clinical supervisor or instructor in the coming days.
- Residence halls will remain open. For students who go home for Thanksgiving and wish to return, they will be required to comply with our reentry protocols. Details will be made available in the coming days.
- Dining facilities are open with current guidelines. After Monday, November 30, dining facilities will offer take-out service only.
- Health & Wellness Services operations remain as-is.

The revised schedule is:

- Monday, Nov. 30: Classes resume remotely
- Monday, Dec. 7 through Saturday, Dec. 12: Final exams
- Saturday, Dec. 12: Fall semester ends
- Sunday, Dec. 13: Virtual fall commencement

For students returning home over Thanksgiving, limited COVID-19 testing will be available before the Thanksgiving break. Details will be made available in the coming days.

As we move into the last week before Thanksgiving, it becomes even more critical that we all continue to be vigilant and to strictly follow all safety protocols. Only with your continued support can we keep our campus safe. Keep up the good work!

BLSA’s End of Semester Review Session

1L Courses

Time	Topic	Zoom
9:30am-11am	Torts	Meeting ID: 836 2286 3443
	Prof. S. Lazarus	Password: BLSATorts
11:15am-12:45pm	Contracts	Meeting ID: 832 1646 7739
	Prof. M. Green	
12:45pm-1:45pm	Lunch Break / Q&A Session	Meeting ID: 869 7374 9603
1:45pm-3:15pm	Dean C. Broering-Jacobs	Password: 424701
	Legislation Regulation	Meeting ID: 872 7347 0953
	Prof. Mead	Password: 044029

Bar Tested Courses

Time	Topic	Zoom
9am-10:30am	Corporations Prof. C. Sagers	Meeting ID: 87329602808 P: 708657
10:45am-12:15pm	Estates & Trusts Prof. J. Plecnik	Meeting ID: 821 4434 9804
	Criminal Procedure (1) Dean Witmer-Rich	Meeting ID: 879 1455 6376 P: 167015
12:15pm-1:15pm	Lunch Break	-----
1:30pm- 3pm	Constitution Law Prof. R. Oh	Meeting ID: 826 3772 1602 Passcode: 843138
	First Amendment Prof. K. O'Neill	Meeting ID: 896 9614 0140 Password: 601332
	Sales Prof. M. Sundahl	Meeting ID: 843 1643 5271 P:

Each year, BLSA hosts a weekend full of reviews before finals. Above is the schedule for what classes are covered this semester. All review sessions have been recorded and will be sent to students. The Gavel would like to thank our readers for their support this semester. Good luck on finals!

Sincerely, The Gavel